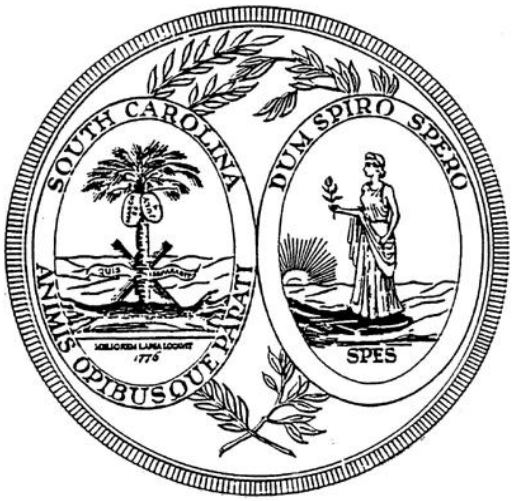
South Carolina
Workers' Compensation Commission



ANNUAL REPORT
2006 - 2007

State of South Carolina

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Workers' Compensation Commission

December 1, 2007

To the Citizens of South Carolina:

The South Carolina Workers' Compensation Commission is pleased to provide a report of its activities and accomplishments for Fiscal Year 2006 - 2007. As documented in the following pages, the Commission has worked hard to continue to improve its administration and management of South Carolina's workers' compensation system. Fiscal year 2006 - 2007 was a very productive year for the Commission, with significant accomplishments in three major areas: the use of technology to improve operations, process times and medical cost containment.

Even with these gains, challenges remain and the Commission remains committed to providing an equitable and timely system of benefits to injured workers and employers in the most responsive, accurate, and reliable manner possible.

Sincerely,

David W. Huffstetler
Chairman

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WORKERS' COMPENSATION IN SOUTH CAROLINA

Workers' compensation laws are designed to provide a satisfactory means of handling occupational disabilities. A 20th century development in North America, workers' compensation laws evolved as the economy became more industrial and less agricultural.

Before these laws were enacted, a well-established common-law principle held that a master or employer was responsible for the injury or death of employees resulting from a negligent act by the master or employer. Thus, disabled workers who sued employers for damages had to prove their injuries were due to employer negligence. This was often a very slow, costly, and uncertain legal process. As business enterprise and machine production expanded, the number of industrial accidents and personal injury suits increased. By the close of the 19th century, it became apparent that a new system -- one that was legally-based, economically-sound, and socially-acceptable -- had to be developed.

In 1911, the first workers' compensation laws were enacted in the United States on an enduring basis. Workers' compensation laws held that employers should assume the costs of occupational disabilities without regard to any fault involved. Resulting economic losses are considered costs of production, chargeable, to the extent possible, as a price factor. The laws serve to relieve employers of liability from common-law suits involving negligence in exchange for becoming responsible for medical costs and lost wages of on-the-job injuries regardless of fault.

Historically, six basic objectives underlie the workers' compensation laws:

1. Provide sure, prompt, and reasonable income and medical benefits to work-related accident victims, or income benefits to their dependents, regardless of fault;

2. Provide a single remedy and reduce court delays, costs, and judicial workloads arising out of personal injury litigation;

3. Relieve public and private charities of financial demands incident to uncompensated occupational accidents;

4. Minimize payment of fees to lawyers and witnesses as well as time consuming trials and court appeals;

5. Encourage maximum employer interest in safety and rehabilitation through an appropriate experience-rating mechanism; and,

6. Promote frank study of the causes of accidents (rather than concealment of fault) in an effort to reduce preventable accidents and human suffering.

The South Carolina Industrial Commission was created on September 1, 1935, to administer and enforce South Carolina's first workers' compensation law. During the past seventy-two years, the law has been amended by statute, defined by case law, and altered through administrative policies and procedures; however, the basic premise and purpose of the law has

remained unaltered. In May, 1986, the name of the Industrial Commission was changed to the more descriptive South Carolina Workers' Compensation Commission.

Every South Carolina employer and employee, with certain notable exceptions, is presumed to be covered by the State's Workers' Compensation Act. Exceptions to this provision include railroad and railway express companies and employees, certain casual employees, Federal employees in South Carolina, businesses with less than four employees, agricultural employees, and certain real estate salespersons, and, by election, corporate officers.

Employers covered by the provisions of the Act are required to maintain insurance sufficient for the payment of compensation, or they shall furnish the Commission satisfactory proof of their ability to pay the compensation in the amount and manner due an injured employee. The Director of the South Carolina Department of Insurance is responsible for approving rates and classifications for all workers' compensation insurers.

An employee may expect compensation for personal injury or death by accident arising out of and in the course of his or her employment. Workers' compensation pays for necessary medical treatment, loss of wages during a period of disability, and compensation for permanent disability or disfigurement. If an employee is injured and unable to work for more than seven days, he or she is eligible to be compensated at a rate of 66 ⅔% of the employee's average weekly wage, limited to 100% of the State's average weekly wage as established each year by the South Carolina Employment Security Commission. If the period of total disability exceeds fourteen days, the employee is eligible for compensation beginning with the date of the accident.

The maximum award for total disability or death is limited by law to five hundred weeks of compensation. The rate of compensation is determined by the injured employee's average weekly wage and cannot exceed 100% of the state's average weekly wage. The loss of both hands, arms, feet, legs, or vision in both eyes, or a combination of two such losses, constitutes total and permanent disability. In addition, a commissioner can make other disability determinations based on the particular loss or impairment to the whole person.

Amounts of compensation for partial disability or disfigurement are generally established and limited by statute or Commission regulation. Awards are usually made in terms of the number of weeks of compensation to which the employee is entitled based on the extent of the disabling injury.

In South Carolina, the disability or death of an employee resulting from an occupational disease is treated as an injury by accident, and the employee, or in the case of death, the deceased's dependents, may be entitled to compensation. A disease may be recognized as an occupational disease only if it is caused by a hazard recognized as peculiar to a particular trade, process, occupation, or employment as a direct result of continuous exposure to normal working conditions. In addition to occupational diseases, injury from harmful exposures to ionizing radiation is also defined for particular attention under the Workers' Compensation Act.

When an employee is injured on the job, he or she should immediately report the accident to the employer, or the employee may jeopardize the payment of medical fees and other compensation he or she may be entitled to under the Act. In no event should the employee wait more than ninety days from the date of the accident to report it to the employer. Claims for compensation must be made within two years after the accident or the date of death. Failure to comply with the timeliness statutes could negate any possible award or other compensation. The

Commission monitors the payment of medical treatment and compensation provided by the employer or its insurance carrier to the injured worker.

An employee may file an application for a hearing before a commissioner if the employer does not report the accident, if the employer denies that the injury was sustained in the course and scope of employment, or if the employee believes that he or she did not receive all of the available benefits. An employee may also file for a hearing if the employer does not begin compensation for more than seven days of disability within fourteen days after the employer has knowledge or notice of the accident, or in the event payment is made, if there is a subsequent disagreement over the continuance of any weekly payment. The hearing will usually take place in the county in which the injury occurred.

The decision of the hearing commissioner may be appealed to the Commission for review. A panel of either three or six commissioners, excluding the original hearing commissioner, will consider the appeal. The decision of the appellate panel may be appealed to a Court of Common Pleas and the State Appellate Courts.

The Workers' Compensation Commission is responsible for administering the workers' compensation law in South Carolina. The Commission works closely with the Governor, the General Assembly, and the Commission's many constituents to ensure that the workers' compensation system is fair, equitable, and responsive to the needs of the citizens of South Carolina.

THE YEAR IN REVIEW

Fiscal Year 2006-2007 was another productive year for the Commission.

Second year funding was received for a multi-year project to replace the Commission's aging computer system installed in 1990. Updated technology is critical to the Commission's function and will enable us to provide more services online and give us the capability to conduct meaningful analyses of the workers' compensation system's performance.

The Commission developed an intranet site that serves as an informational tool, educational resource and customer service enhancer for the agency. The site provides information pertinent to all employees. New employees as well as seasoned employees benefit from the information provided about every department and division within the Commission. The site also serves a cross-training tool, providing detailed information about departmental missions, employee responsibilities, processes and procedures. All of theses result in employees that are proficient in providing the public information about the Commission that is consistent, precise and helpful in addressing inquiries.

The Commission continues to expedite hearing requests within 90 days which has reduced the waiting time for a hearing from four months to three months. Full Commission Panel Reviews are also expedited within 90 days.

The Commission implemented a new payment system for health care facilities treating workers' compensation patients. Effective October 1, 2006, healthcare facilities are paid 140% of the federal Medicare payment for inpatient and outpatient services. The Commission's decision, taken in response to rapidly rising medical care charges, is expected to save employers and insurance carriers as much as $60 million annually. To assist with the transition to the new payment system, the Commission established the capability to review and re-price all hospital inpatient, outpatient and ambulatory surgery center bills at no charge. This greatly facilitated the transition to the new payment system at an earlier date than otherwise possible.

The new payment system is a meaningful step towards moderating medical costs in workers compensation. Between 2000 and 2005, inpatient procedures for workers' compensation injuries declined by 8% but charges increased 118%. Over the same period, outpatient procedures in workers' compensation declined 9.6% and outpatient charges rose 64.2%.

During FY 06-07, self-insurance taxes decreased from $5.9 to $5.8 million. Overall, the number of self-insured employers decreased over the past three years, decreasing the total number of claims and the total dollar amounts paid (the base for the self-insured tax). The average weekly wage also increased during this time, as did medical costs (prices and utilization), all of which would impact total taxes collected.

A process for resolving claims initially reported as uninsured was developed to minimize the waiting period while determining if an employer is subject to the Workers' Compensation Act. As a result, the waiting time for cases to be heard decreased from four months to three months.

The South Carolina Human Affairs Commission commended the agency for achieving 99.9% of its 2006-2007 equal opportunity goals.

The popularity of the Commission's series of one-day seminars on claims management, *Claims Administration Made Easy*, continued as the Commission held two seminars in Columbia. The workshops provide a thorough overview of the workers' compensation system in South Carolina, as well as a comprehensive review of claims-processing requirements. The workshops cover the legal and administrative requirements for submitting complete and accurate claims information. In addition, the Commission teamed up with the South Carolina Workers' Compensation Educational Association to co-sponsor the 30th Annual Workers' Compensation Medical Seminar, a three-day event devoted to medical issues relevant to workers' compensation.

The ongoing success of any organization is a direct and proximate result of the performance of its employees. For her achievements and accomplishments during FY 06-07, the Commission recognized Vivian Brown as its Employee of the Year. Ms. Brown has been a Commission employee for twenty five years and is a claims examiner in the Claims Department. Other employees receiving recognition for outstanding contributions included: Margaret Sanders, Administration, Shannon Reep, Insurance & Medical Services, and Audra Higbe with the Commission's Judicial Department. The Commission welcomed several new employees to the Commission. Ashley Jacobs joined the agency as the Director of the Judicial Department, Evelyn Morgan was hired as the Administrative Service Manager and Virginia Crocker joined the Commission on a contractual basis conducting mediations and was hired as the Director of the Judicial Department.

The Commission works closely with a number of State agencies. For example, we exchange coverage information with the Employment Security Commission; serve as a satellite office of the Department of Vocational Rehabilitation; maintain established fraud reporting protocols with the Office of the State Attorney General; exchange workplace safety information with the Department of Labor; maintain direct data links to our claims database for the Uninsured Employers Fund and the Second Injury Fund; participate in joint fraud investigations and prosecutions with the FBI and the U.S. Office of the Attorney General; and provide information to the Social Security Administration.

When compared to other states, South Carolina has moderate workers' compensation benefits (neither high nor low) with relatively moderate insurance premium costs for employers. In national comparisons, South Carolina's premium ranked twenty-sixth overall and eighteenth lowest for firms in the manufacturing industry.

South Carolina must have a workers' compensation system that is stable, objectively balanced, competently managed and cost effective; one that provides a fair, equitable and timely system of benefits to injured workers and their employers. The South Carolina Workers' Compensation Commission is committed to such a system and will continue to that end as directed by the General Assembly.

WORKERS' COMPENSATION AND VOCATIONAL REHABILITATION

A cooperative arrangement between the Workers' Compensation Commission and the Vocational Rehabilitation Department exists to establish the means for a practical and effective working relationship between the two agencies and to provide maximum services to industrially injured, vocationally handicapped persons.

A Vocational Rehabilitation office, with a counselor and casework assistant, is located at the Workers' Compensation Commission to serve as liaison between the Vocational Rehabilitation Department and the Workers' Compensation Commission. This office not only provides services to injured workers, it also makes initial identifications and refers injured workers to vocational rehabilitation facilities throughout the state. These referrals are generated from Commission staff, commissioners, attorneys, insurance carriers, physicians, and others.

Among the chief advantages to the cooperative working arrangement is the opportunity to obtain early referral of injured workers so they can begin the rehabilitation process with the shortest time lapse between injury and re-employment. Referrals with first reports of injury and medical information are screened and assigned to the counselor in the area of the state where the claimant resides. In each instance, the receiving counselor is requested to supply a progress report within thirty days after the initial contact and to continue to report significant events.

The Vocational Rehabilitation Department places strong emphasis on providing services to injured workers, and the designated counselors facilitate the exchange of information and the delivery of rehabilitation services to workers' compensation recipients. Local vocational rehabilitation workshops are assessed for evaluation and adjustment training, and a network of statewide comprehensive facilities which specializes in a variety of rehabilitation services directed toward severely disabled clients is available.

As a result of these cooperative efforts, three hundred and seventy referrals were made during Fiscal Year 2006-2007.

LEGISLATION PASSED DURING THE 2006 GENERAL ASSEMBLY WHICH AFFECTS THE SOUTH CAROLINA WORKERS' COMPENSATION LAW

Act No. 111 Workers' Compensation Reform
Effective 7/1/07

Part I

§42-17-60, §14-8-200(a)

An appeal from the Worker's Compensation Commission will fall under the jurisdiction of the Court of Appeals.

§38-55-530

The definition of false statement or misrepresentation was expanded to specifically include intentional acts or false reporting of business activities, miscount or misclassification by an employer of its employees, failure to timely reduce reserves, failure to account for Second Injury Fund or other third party reimbursements and failure to provide verifiable information to insurance rating bureaus and the Department of Insurance. The definition of an undeserved economic benefit was expanded to include a favorable insurance premium, payment schedule, insurance award or settlement.

§38-55-540

Penalties under the fraud section were increased. A person who knowingly makes a false statement or misrepresentation, with an intent to injure, defraud, or deceive, or who assists, abets, solicits, or conspires with a person to make a false statement or misrepresentation, is guilty of a first offense misdemeanor violation, if the amount of the economic advantage or benefit received is less than one thousand dollars. Upon conviction, the person must be fined no less than one hundred nor more than five hundred dollars or imprisoned not more than thirty days. If the amount of the economic advantage or benefit received is one thousand dollars or more but less than ten thousand dollars, upon conviction, the person must be fined no less than two thousand no more than ten thousand dollars or imprisoned no more than three years, or both.

A first offense felony violation, if the amount of the economic advantage or benefit received is ten thousand dollars or more but less than fifty thousand dollars, upon conviction, carries a fine of no less than ten thousand no more than fifty thousand dollars or imprisoned not more than five years, or both. A first offense felony violation, if the amount of the economic advantage or benefit received is fifty thousand dollars or more, upon conviction, carries a fine of no less than twenty thousand no more than one hundred thousand dollars or imprisoned not more than ten years, or both. A second or subsequent felony violation, regardless of the amount of the economic advantage or benefit received. Upon conviction, the person must be fined not less than twenty thousand nor more than one hundred thousand dollars or imprisoned not more than ten years, or both.

In addition to the criminal penalties set forth in this subsection, a person convicted pursuant to the provisions of this section must be ordered by the court to make full restitution to a victim for any economic advantage or benefit which has been obtained by the person as a result of that violation, and to pay the difference between any taxes owed and any taxes the person paid, if applicable.

§38-55-560(E)

The Office of the Attorney General is authorized employ one forensic accountant to be assigned to the Insurance Fraud Division of the Attorney General's office

§42-1-160

Cases involving stress, mental injury, or mental illness arising out of and in the course of employment unaccompanied by physical injury and resulting in mental illness or injury are not considered a personal injury unless the employee establishes, by a preponderance of the evidence: that the employee's employment conditions causing the stress, mental injury or mental illness were extraordinary and unusual in comparison to the normal conditions of the particular employment and extraordinary and unusual in comparison to the normal conditions of the particular employment and the medical causation between the stress, mental illness or mental injury and the stressful employment conditions by medical evidence.

§42-1-172

Repetitive trauma is defined as an injury which is gradual in onset and caused by cumulative effects of repetitive traumatic events. A repetitive injury is considered to arise out of employment only if it is established by medical evidence that there is a direct casual relationship between the condition under which the work is performed and the injury. An injury is not considered a repetitive trauma injury unless a commissioner makes a specific finding of fact by a preponderance of the evidence of a causal connection that is established by medical evidence between the repetitive activities that occurred while the employee was engaged in the regular duties of his employment and the injury.

§42-1-360

Individuals who own or have a lease purchase or installment purchase agreement for a vehicle and who have a independent contractor contract are exempt from workers' compensation unless the parties mutually agree otherwise. A lease purchase or installment purchase agreement can be between the individual and the motor carrier's affiliate, subsidiary or related entity.

§42-1-700

Injured or affected body parts and conditions shall be set forth with as much specificity as possible on the commission's Employee's Notice of Claim and/or Request for Hearing form, hereinafter referred to as Form 50. A Form 50 shall not describe the injured body part(s) or condition(s) as "whole person", "whole body", "all body parts", or other similar language unless the injured employee died as a result of the accident. No hearing shall be held on a Form 50 which does not conform to the requirements of this subsection.

Nothing in this section prohibits a commissioner from determining the compensability of a body part or condition not listed or described on a Form 50 if the body part or condition is proved by a preponderance of the evidence to have arisen from the injury or injuries out of and in the course of employment as set forth on the Form 50; if it is proven to the satisfaction of the

commissioner that the employee had no knowledge of the injury or condition on the date of the completion of the Form 50. However, the employee is required to amend the Form 50 upon discovery of the injury or condition within a reasonable time period pursuant to regulation; or in the case of a represented employee, the body part or condition is set forth on the commission's Pre-Hearing Brief form, and such pre-hearing brief is timely filed with the commission and timely served upon the parties.

A Form 50 must be signed by an attorney if the employee is represented, verifying that the contents of the form are accurate and true to the best of the attorney's knowledge. If the employee is not represented, the employee who signs a Form 50 must verify that the contents of the form are accurate and true to the best of the employee's knowledge.

§42-1-705

The commission's Employer's Answer to Request for Hearing form, Form 51, must describe with as much specificity as possible the defenses to be relied upon by the defendants. A Form 51 shall not state that "all defenses apply" or other similar language, unless such is actually the case. A Form 51 which does not conform to the requirements of this subsection shall not be considered at a hearing.

Nothing in this section prohibits a commissioner from considering a defense not listed on a Form 51 if it is proven to the satisfaction of the commissioner that the defendants had no knowledge of the facts supporting the defense on the date of the completion of the Form 51; and in the case of represented defendants, the defense omitted on the Form 51 is set forth on the commission's Pre-Hearing Brief form, and such brief is timely filed with the commission and timely served upon the parties.

A Form 51 must be signed by an attorney, verifying that the contents of the form are accurate and true to the best of the attorney's knowledge. If the employer is unrepresented and completes a Form 51, the employer must sign the form, verifying that the contents are accurate and true to the best of the employer's knowledge.

§43-3-20

The commission shall consist of seven members appointed by the Governor with the advice and consent of the Senate for terms of six years and until their successors are appointed and qualify. In the event the Governor does not fill a vacancy within sixty days after the vacancy occurs, the commission by majority vote shall deputize a person with suitable experience, training, and knowledge to serve as a deputy commissioner to serve until such time as the Governor fills the vacancy. As soon as the Governor appoints a replacement who is confirmed by the Senate, the deputy commissioner shall immediately cease to serve in that office. While serving as a deputy commissioner, the deputy commissioner has the power and authority to swear or cause the witnesses to be sworn and shall transmit all testimony and shall make a recommendation to the commission for an award. The commission must determine the award based upon testimony received by the deputy commissioner and may consider the deputy commissioner's recommendation.

The Governor, with the advice and consent of the Senate, shall designate one commissioner as chairman for a term of two years, and the chairman may serve two terms during his six-year term but not consecutively. At the conclusion of a commissioner's two-year term as chairman, the Governor shall appoint another chairman. If the Governor does not appoint another chairman at the expiration of the two-year term, a majority of the commission shall elect from

among their members an interim chairman who shall serve until the Governor appoints another chairman other than the one last appointed. A deputy commissioner is not eligible to serve as chairman.

The commissioners shall hear and determine all contested cases, conduct informal conferences when necessary, approve settlements, hear applications for full commission reviews, and handle such other matters as may come before the department for judicial disposition. Full commission reviews shall be conducted by all commissioners, excluding the original hearing commissioner, or by three-member panels, excluding the original hearing commissioner, appointed by the chairman. The chairman, with approval of a majority of the other commissioners, shall determine which full commission reviews shall be assigned to panels. The decisions of three-member panels have the same force and effect as full commission reviews.

§42-3-60

Each commissioner shall be authorized to employ an administrative assistant to serve at the commissioner's pleasure.

§42-3-175

If a claimant brings an action before the commission to enforce an order authorizing medical treatment or payment of benefits and the commission determines that an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission, the insurer, the self-insured employer, the self-insured fund, or the adjuster must pay the claimant's attorneys' fees and costs of enforcing the order. The commission may impose sanctions for willful disobedience of an order, including, but not limited to, a fine of up to five hundred dollars for each day of the violation.

The commission must notify the Department of Insurance of an insurer's or an adjuster's failure to authorize and pay benefits for medical treatment. If the Director of the Department of Insurance or his or her designee determines that there has been a violation of any provision of Title 38, he may impose penalties for each violation, including, but not limited to, administrative penalties pursuant to Section 38-2-10.

If the commission discovers a pattern of an insurer failing to pay benefits pursuant to an award, the chairman must notify the Director of the Department of Insurance. For purposes of this section, a pattern is established upon an insurer's failure to pay an award at least three times within a two-year period by failing to pay for individual claims, for a claim in which the claimant had to request enforcement of an award, or any combination or the two. All fines collected pursuant to this section must be submitted to the general fund.

The director or his or her designee must hold a hearing to determine if the insurer had good cause for nonpayment. If the director or his or her designee determines that nonpayment was intentional three or more times within a two-year period, the director may revoke the license of the insurer to do business in this State. If the director or his or her designee revokes the license of the insurer, he must take any steps he considers necessary for the protection of the insurer's policyholders in this State.

§42-3-420

The commission may from time to time, as it may consider advisable, destroy any of its inactive files that are at least fifteen years old. The commission may maintain these files in either

paper or electronic form. No files of the commission shall be considered inactive until the commission is satisfied that the files will be of no further use.

§42-5-40

Any employer required to secure the payment of compensation under this title who refuses or neglects to secure such compensation shall be punished by a fine of one dollar for each employee at the time of the insurance becoming due, but not less than ten dollars nor more than one hundred dollars for each day of such refusal or neglect, and until the same ceases, and he shall be liable during continuance of such refusal or neglect to an employee either for compensation under this title or at law in an action instituted by the employee or his personal representative against such employer to recover damages for personal injury or death by accident and in any such action such employer shall not be permitted to defend upon any of the grounds mentioned in Section 42-1-510.

The fine provided in this section may be assessed by the commission in an open hearing with the right of review and appeal as in other cases. All fines collected pursuant to this section must be submitted to the general fund.

§42-9-5

Any award made pursuant to this title must be based upon specific and written detailed findings of fact substantiating the award.

§42-9-10

The loss of both hands, arms, shoulders, feet, legs, hips, or vision in both eyes, or any two thereof, constitutes total and permanent disability to be compensated according to the provisions of this section.

§42-9-30

An employee with a permanent physical impairment or preexisting condition who suffers an injury on the job can receive compensation for the resulting disability caused by the permanent physical impairment and the injury. The employee must have medical evidence to show the injury aggravated the permanent physical impairment. If an injury is limited to one body part and it does not affect another body part, the employee can only receive compensation for a scheduled injury. The shoulder and hip were added as scheduled members, the hip is valued at 280 weeks of compensation and the shoulder is valued at 300 weeks. The compensation for partial loss of use of the back shall be proportions of the periods of payment provided for total loss as such partial loss bears to total loss, except in cases where there is fifty percent or more partial loss of use of the back the injured employee shall be presumed to have suffered total and permanent disability. The presumption set forth is rebuttable. In cases where the loss of use of the back is forty-nine percent or less, compensation is determined based on sixty-six and two-thirds percent of the average weekly wage for three hundred weeks. In cases where the loss of use of the back is fifty percent or more, compensation is determined based on sixty-six and two-thirds percent of the average weekly wage for five hundred weeks.

§42-9-35

The employee shall establish by a preponderance of the evidence, including medical evidence, that the subsequent injury aggravated the preexisting condition or permanent physical impairment; or the preexisting condition or the permanent physical impairment aggravates the subsequent injury.

The commission may award compensation benefits to an employee who has a permanent physical impairment or preexisting condition and who incurs a subsequent disability from an injury arising out of and in the course of his employment for the resulting disability of the permanent physical impairment or preexisting condition and the subsequent injury. However, if the subsequent injury is limited to a single body part or member scheduled in Section 42-9-30, except for total disability to the back as provided in Section 42-9-30(21), the subsequent injury must impair or affect another body part or system in order to obtain benefits in addition to those provided for in Section 42-9-30.

As used in this section, "medical evidence" means expert opinion or testimony stated to a reasonable degree of medical certainty, documents, records, or other material that is offered by a licensed health care provider. The provisions of this section apply whether or not the employer knows of the preexisting permanent disability. On and after the effective date of this section, an employee who suffers a subsequent injury which affects a single body part or member injury set forth in Section 42-9-30 is limited to the recovery set forth in that section.

§42-9-60

No compensation shall be payable if the injury or death was occasioned by the intoxication of the employee or by the willful intention of the employee to injure or kill himself or another. In the event that any person claims that the provisions of this section are applicable in any case, the burden of proof shall be upon such person.

§42-9-150

If an employee has a permanent disability or has sustained a permanent injury that resulted from serving in the United States Armed Forces or in another employment other than that in which he receives a subsequent permanent injury by accident, such as specified in Section 42-9-30 or the second paragraph of Section 42-9-10, he shall be entitled to compensation only for the degree of disability which would have resulted from the later accident if the earlier disability or injury had not existed, except that such employee may receive further benefits if his subsequent injury qualifies for additional benefits under Section 42-9-35.

§42-9-170
Effective 7/1/08

If an employee receives a permanent injury as specified in Section 42-9-30 or the second paragraph of Section 42-9-10 after having sustained another permanent injury in the same employment, he is entitled to compensation for both injuries, but the total compensation must be paid by extending the period and not by increasing the amount of weekly compensation, and in no case exceeding five hundred weeks. If an employee previously has incurred permanent partial disability through the loss of a hand, arm, shoulder, foot, leg, hip, or eye and by subsequent accident incurs total permanent disability through the loss of another member, the employer's liability is for the subsequent injury only, except that the employee may receive further benefits as provided under the provisions of Section 42-9-35.

§42-9-390

Nothing contained in this chapter may be construed so as to prevent settlements made by and between an employee and employer as long as the amount of compensation and the time and manner of payment are in accordance with the provisions of this title. The employer must file a copy of the settlement agreement with the commission if each party is represented by an attorney.

If the employee is not represented by an attorney, a copy of the settlement agreement must be filed by the employer with the commission and approved by one member of the commission.

§42-11-10

An injured employee must establish that an occupational disease arose directly and naturally from exposure in South Carolina to hazards particular to the employee's employment by a preponderance of evidence. Medical evidence is defined as expert opinion or testimony stated to a reasonable degree of medical certainty, documents, records, or other material that is offered by a licensed health care provider.

§42-15-20

In the case of repetitive trauma, notice must be given by the employee within ninety days of the date the employee discovered, or could have discovered by exercising reasonable diligence, that his condition is compensable, unless reasonable excuse is made to the satisfaction of the commission for not giving timely notice, and the commission is satisfied that the employer has not been unduly prejudiced thereby.

§42-15-40

The right to compensation is barred unless a repetitive trauma claim is filed with the commission within two years after the employee knew or should have known that his injury is compensable but no more than seven years after the last date of injurious exposure.

§42-15-60

An employer shall provide medical treatment as reasonably may be required, for a period not exceeding ten weeks from the date of the injury and for additional time as deemed necessary by the commission to lessen the period of disability supported by expert medical evidence stated to a reasonable degree of medical certainty. Permanency awards ordered by a single Commissioner must contain findings of fact as to whether or not further medical treatment must be provided to the employee. Employers are not responsible for future medical treatment if there is a lapse in treatment of the employee in excess of one year unless: a settlement agreement or commission order provides otherwise or the employee attempted to obtain treatment but was unable to through not fault of his own.

§42-15-80

The commission shall promulgate regulations establishing the role of rehabilitation professionals and other similarly situated professionals in workers' compensation cases with consideration given to these persons' duties to both the employer and the employee and the standards of care applicable to the rehabilitation professional or other similarly situated professional as the case may be.

§42-15-95

Any employee who seeks treatment for any injury, disease, or condition for which compensation is sought under the provisions of this title shall be considered to have given his consent for the release of medical records relating to such examination or treatment under any applicable law or regulation. All information compiled by a health care facility, as defined in Section 44-7-130, or a health care provider licensed pursuant to Title 40 pertaining directly to a

workers' compensation claim must be provided to the insurance carrier, the employer, the employee, their respective attorneys or certified rehabilitation professionals, or the South Carolina Workers' Compensation Commission, within fourteen days after receipt of written request.

A health care facility and a health care provider may charge a fee for the search and duplication of a medical record in accordance with regulations promulgated by the Workers' Compensation Commission. Fee schedules established through regulations of the Workers' Compensation Commission shall apply only to claims under Title 42. If a health care provider fails to send the requested information within thirty days after receipt of the request, the person or entity making the request may apply to the commission for an appropriate penalty payable to the commission, not to exceed two hundred dollars.

A health care provider who provides examination or treatment for any injury, disease, or condition for which compensation is sought under the provisions of this title may discuss or communicate an employee's medical history, diagnosis, causation, course of treatment, prognosis, work restrictions, and impairments with the insurance carrier, employer, their respective attorneys or certified rehabilitation professionals, or the commission without the employee's consent. The employee must be notified by the employer, carrier, or its representative requesting the discussion or communication with the health care provider in a timely fashion, in writing or orally, of the discussion or communication and may attend and participate. This notification must occur prior to the actual discussion or communication if the health care provider knows the discussion or communication will occur in the near future. The employee must be advised by the employer, carrier, or its representative requesting the discussion or communication with the health care provider of the nature of the discussion or communication prior to the discussion or communication; and provided with a copy of the written questions at the same time the questions are submitted to the health care provider. The employee also must be provided with a copy of the response by the health care provider. Any discussion or communication must not conflict with or interfere with the employee's examination or treatment.

Any discussions, communications, medical reports, or opinions obtained in accordance with this section will not constitute a breach of the physician's duty of confidentiality. Any discussions, communications, medical reports, or opinions obtained in violation of this section must be excluded from any proceedings under the provisions of this title.

§42-17-60

The award of the commission, as provided in Section 42-17-40, if not reviewed in due time, or an award of the commission upon the review, as provided in Section 42-17-50, is conclusive and binding as to all questions of fact. However, either party to the dispute, within thirty days from the date of the award or within thirty days after receipt of notice to be sent by registered mail of the award, but not after, whichever is the longest, may appeal from the decision of the commission to the court of appeals. Notice of appeal must state the grounds of the appeal or the alleged errors of law. In case of an appeal from the decision of the commission on questions of law, the appeal does not operate as a supersedes and, after that time, the employer is required to make weekly payments of compensation and to provide medical treatment ordered by the commission involved in the appeal or certification until the questions at issue have been fully determined in accordance with the provisions of this title. Interest accrues on an unpaid portion of the award at the legal rate of interest as established in Section 34-31-20(B) during the pending of an appeal.

§42-17-90

On its own motion or on the application of a party in interest on the ground of a change in condition, the commission may review an award and on that review may make an award ending, diminishing, or increasing the compensation previously awarded, on proof by a preponderance of the evidence that there has been a change of condition caused by the original injury, after the last payment of compensation. An award is subject to the maximum or minimum provided in this title, and the commission immediately shall send to the parties a copy of the order changing the award. The review does not affect the award as regards any monies paid and the review must not be made after twelve months from the date of the last payment of compensation pursuant to an award provided by this title.

A motion or application for change in condition involving a repetitive trauma injury must be made within one year from the date of the last compensation payment for the repetitive trauma injury. Any filing not made within this one-year period shall be considered untimely and shall not be reviewed. A motion or application for change in condition involving an occupational disease must be made within one year from the date of the last compensation payment for the occupational disease. Any filing not made within this one-year period shall be considered untimely and shall not be reviewed.

Part II
Second Injury Fund

§38-73-495

The director of the Department of Insurance or his designee may disapprove an experience modification rate for workers' compensation insurance upon a finding that the rate is excessive, inadequate, or unfairly discriminatory. This includes an experience modification rate that fails to account for third party reimbursements, including the Second Injury Fund. Appeals regarding experience modification rates must first be exhausted through the National Council on Compensation Insurance's dispute resolution process prior to appealing with the Department of Insurance. Appeals to the department must be filed within one year of policy expiration date or cancellation date, whichever comes first.

§42-7-310(d)(2)

Each carrier shall make payments to the Second Injury Fund in an amount equal to that proportion of one hundred thirty-five percent of the total disbursement made from the fund during the preceding fiscal year, less the amount of net assets in the fund as of June thirtieth of the preceding fiscal year which the normalized premium of each carrier bore to the normalized premium of all carriers during the preceding calendar year. Each insurance carrier, self-insurer, and the State Accident Fund shall make payment based upon workers' compensation normalized premiums during the preceding calendar year.

§42-9-400

If an employee who has a permanent physical impairment from any cause or origin incurs a subsequent disability from injury by accident arising out of and in the course of his employment, resulting in compensation and medical payments liability or either, for disability that is substantially greater and is caused by aggravation of the preexisting impairment than that which would have resulted from the subsequent injury alone, the employer or his insurance carrier shall pay all awards of compensation and medical benefits provided by this title. Such

employer or his insurance carrier shall be reimbursed from the Second Injury Fund as created by Section 42-7-310 for compensation and medical benefits in the following manner: (1) reimbursement of all compensation benefit payments payable subsequent to those payable for the first seventy-eight weeks following the injury; (2) reimbursement of fifty percent of medical payments in excess of three thousand dollars during the first seventy-eight weeks following the injury and then reimbursement of all medical benefit payments payable subsequent to the first seventy-eight weeks following the injury; provided, however, in order to obtain reimbursement for medical expense during the first seventy-eight weeks following the subsequent injury, an employer or carrier must establish that his liability for medical payments is substantially greater by reason of the aggravation of the preexisting impairment than that which would have resulted from the subsequent injury alone.

Arthritis is no longer considered a subsequent impairment when knowledge of the permanent impairment is established, even if the presumption that the condition is permanent and that a hindrance or obstacle to employment or reemployment exists.

Any pre-existing disease, condition or impairment which is permanent in nature and which would qualify for payment of weekly disability benefits of seventy-eight weeks or more under Section 42-9-30 exclusive of benefits payable of disfigurement; or would support a rating of seventy eight or more weeks of weekly disability benefits when evaluated according to the standard applied to Worker's Compensation claims in South Carolina, or combines with a subsequent injury to cause a permanent impairment rated at seventy eight weeks or more under section 42-9-30 that is not specified in this section is excluded.

An employer or his carrier must notify the Workers' Compensation Commission and the Director of the Second Injury Fund in writing of any possible claim against the fund as soon as practicable but in no event later than after the payment of the first seventy-eight weeks of compensation. This written notice must provide the date of accident; employee's name; employer's name and address; insurance carrier's name, address, and the National Council on Compensation Insurance code; and the insurance carrier's claim number, policy number, and policy effective date. The carrier claim number is the unique identifier a carrier uses throughout the life of a claim to report that claim to the National Council on Compensation Insurance. Failure to comply with the provisions of this subsection shall bar an employer or his carrier from recovery from the fund.

As a prerequisite to reimbursement from the fund, the insurer shall be required to certify that the medical and indemnity reserves have been reduced to the threshold limits of reimbursement and report in accordance with the National Council on Compensation Insurance Workers' Compensation Statistical Plan. The Second Injury Fund Director must quarterly submit to the National Council on Compensation Insurance information regarding Second Injury Fund accepted claims. The National Council on Compensation Insurance must submit a report of any discrepancies pursuant to regulations established by the Department of Insurance. The Department of Insurance is directed to establish regulations concerning Second Injury Fund discrepancies.

§42-7-200

The Uninsured Employers' Fund is created within the Second Injury Fund to ensure payment of workers' compensation benefits to injured employees whose employers have failed to acquire necessary coverage for employees in accordance with provisions of this section. The fund

must be administered by the Director of the Second Injury Fund, who shall establish procedures to implement this section, until June 30, 2013. Effective July 1, 2013, all functions within the Second Injury Fund related to the Uninsured Employers' Fund, including all allied, advisory, affiliated, or related entities, as well as the employees, funds, property, and all contractual rights and obligations associated with the Uninsured Employers' Fund, is transferred to the South Carolina Workers' Compensation Uninsured Employers' Fund, and all powers, duties, obligations, and responsibilities of the Second Injury Fund that relate to the Uninsured Employers' Fund are devolved upon the South Carolina Workers' Compensation Uninsured Employers' Fund in accordance with the State Budget and Control Board's plan for the closure of the Second Injury Fund.

Effective July 1, 2013, The Uninsured Employers' Fund is established within the State Accident Fund and must be administered by the Director of the State Accident Fund, who shall establish procedures to implement this section.

§42-7-320

Except as otherwise provided in this section, on and after July 1, 2013, the programs and appropriations of the Second Injury Fund are terminated. The State Budget and Control Board must provide for the efficient and expeditious closure of the fund with the orderly winding down of the affairs of the fund so that the remaining liabilities of the fund are paid utilizing assessments, accelerated assessments, annuities, loss portfolio transfers, or such other mechanisms as are reasonably determined necessary to fund any remaining liabilities of the fund. The Department of Insurance and the Workers' Compensation Commission may submit comments and suggestions to be considered by the State Budget and Control Board in planning for the closure of the fund. The State Budget and Control Board shall cause all necessary actions to be taken to provide appropriate staffing of the fund until such time as the staff services are no longer required to administer the obligations of the fund. The fund's administrative costs, including employee salaries and benefits, shall be paid from the Second Injury Fund Trust if the interest from the trust becomes insufficient to pay these obligations.

After December 31, 2011, the Second Injury Fund shall not accept a claim for reimbursement from any employer, self-insurer, or insurance carrier. The fund shall not consider a claim for reimbursement for an injury that occurs on or after July 1, 2008. An employer, self-insurer, or insurance carrier must notify the Second Injury Fund of a potential claim by December 31, 2010. Failure to submit notice by December 31, 2010, shall bar an employer, self-insurer, or insurance carrier from recovery from the fund. An employer, self-insurer, or insurance carrier must submit all required information for consideration of accepting a claim to the Second Injury Fund by June 30, 2011. Failure to submit all required information to the fund by June 30, 2011, so that the claim can be accepted, compromised, or denied shall bar an employer, self-insurer, or insurance carrier from recovery from the fund. Insurance carriers, self-insurers, and the State Accident Fund remain liable for Second Injury Fund assessments, as determined by the State Budget and Control Board, in order to pay accepted claims. The fund shall continue reimbursing employers and insurance carriers for claims accepted by the fund on or before December 31, 2011.

Part III
Lost Cost Multiplier

§38-73-520

Every insurer must file with The Department of Insurance, except as to exempt commercial policies, every manual of classifications, rules, and rates, every rating plan, and every modification of any of these which it proposes to use. The filing exemption shall not apply to loss cost filings by advisory or rating organizations or to the multiplier for expenses, assessments, profit, and contingencies and any modifications to loss costs used by a workers' compensation insurer to be applied to approved loss costs to develop the insurer's rates as provided in Section 38-73-525. Every filing must state the proposed effective date and indicate the character and extent of the coverage contemplated.

§38-73-525

At least thirty days prior to using new rates, every insurer writing workers' compensation must file its multiplier for expenses, assessments, profit, and contingencies and any information relied upon by the insurer to support the multiplier and any modifications to loss costs. A copy of the filing must be provided simultaneously to the Consumer Advocate. The filing must contain, at a minimum, the following information: commission expense; other acquisition expense; general expense; expenses associated with recoveries from the Second Injury Fund; guaranty fund assessments; other assessments; premium taxes; miscellaneous taxes, licenses, or fees; and provision for profit and contingencies. Rate filings must be reviewed by an actuary employed or retained by the department who is a member of the American Academy of Actuaries or an associate or fellow of the Casualty Actuarial Society. Within the thirty-day period, if the director or his or her designee believes the information filed is not complete, the director or his or her designee must notify the insurer of additional information to be provided. Within fifteen days of receipt of the notification, the insurer must provide the requested information or file for a hearing challenging the reasonableness of the director's or his or her designee's request. The burden is on the insurer to justify the denial of the additional information. Unless a hearing has been requested, upon expiration of the thirty-day period or the fifteen-day period, whichever is later, the insurer may use the rates developed using the multiplier of expenses, assessments, profit, and contingencies.

§38-73-526

The director of The Department of Insurance or his or her designee must issue a report to the General Assembly by the first of January each year that evaluates the state of the workers' compensation insurance market in this State. The report must contain an analysis of the availability and affordability of workers' compensation coverage and document that the department has complied with the provisions of Sections 38-73-430 and 38-73-525 with regard to both workers' compensation loss cost filings submitted by an advisory or rating organization and multiplier filings submitted by every insurer writing workers' compensation insurance.

§38-73-960

The director of The Department of Insurance or his or her designee must review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter. Subject to the exceptions specified in Sections 38-73-965, 38-73-970, and 38-73-980, each filing must be on file for a waiting period of sixty days before it becomes effective. This period may be extended by the director or his or her designee for an additional period not to exceed sixty days if he or she gives written notice within the waiting

period to the insurer or rating organization which made the filing that he or she needs additional time for the consideration of the filing. Upon written application by the insurer or rating organization, the director or his or her designee may authorize a filing which he or she has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing meets the requirements of this chapter unless disapproved by the director or his or her designee within the waiting period or any extension thereof.

§38-73-965

A filing made pursuant to Section 38-73-525 is governed by the effective dates specified in that section.

§38-73-990

Except as provided in Section 38-73-995, if within the waiting period or any extension as provided in Section 38-73-960 the director or his or her designee finds that a filing or a part of a filing does not meet the requirements of this chapter, he or she must send to the insurer or rating organization which made the filing written notice of disapproval of the filing or part of a filing specifying therein in what respects he or she finds the filing or part thereof fails to meet the requirements of this chapter and stating that the filing or the part may not become effective.

§38-73-995

An insurer's workers' compensation rates developed using its most recent multiplier for expenses, assessments, profit, and contingencies and any modifications to loss costs may be disapproved at any time after they become effective if the director or his or her designee determines that they do not meet the requirements of this chapter.

For a complete copy of Act 111, please see http://www.scstatehouse.gov/sess117_2007-2008/bills/332.htm.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Our Vision: Be the driving force in a workers' compensation system of excellence that delivers superior service to employers and their workers, thereby enhancing economic development in South Carolina.

Our Mission: Provide an equitable and timely system of benefits to injured workers and to employers in the most responsive, accurate, and reliable manner possible.

Commissioners:

Mission: Establish policies consistent with the mission of the organization and resolve or adjudicate all matters brought under the Workers' Compensation Act.

The Commission consists of seven members appointed by the Governor with the advice and consent of the Senate for terms of six years and until their successors are appointed and qualified. The Governor, with the advice and consent of the Senate, designates one commissioner as chairman for a term of two years, and the chairman may serve two terms in a six-year period, but not consecutively. The chairman is the chief executive officer of the Commission and responsible for implementing the policies established by the Commission in its capacity as the governing board.

The Commissioners are responsible for hearing and determining all contested cases, conducting informal conferences, approving settlements, and hearing appellant applications. In their capacity as administrative law judges, the Commissioners must conduct the legal proceedings in the county in which the claimant was injured. For administrative purposes, the State is divided into seven districts. Commissioners are assigned to a district for a period of two months before being reassigned to another district. During the course of a fourteen-month period, the Commissioners serve in each of the State's forty-six counties.

It is the responsibility of the Commission to administer the South Carolina Workers' Compensation Law, generally found in Title 42 of the Code of Laws of South Carolina. In accordance with the Administrative Procedures Act, the Commission also promulgates rules and regulations necessary to implement the provisions of Title 42.

Executive Director

Mission: Provide the leadership vital to accomplishing the organization's mission.

The day-to-day administration and operation of the Commission is the responsibility of the executive director who is appointed by, and serves at the pleasure of, the seven Commissioners acting in their capacity as the board of directors of the agency. The executive director functions as the Commission's chief operating officer.

Under the general supervision and management of the executive director are the Commission's six functional departments: (1) Administration, (2) Claims, (3) Insurance & Medical Services, (4) Judicial, (5) Legal, and (6) Information Services. Each department is under the supervision of a director and is organized into one or more operational divisions.

Administration Department

Mission: Provide the administrative support necessary to enable employees to accomplish the organization's mission.

The Administration Department is responsible for a variety of internal programs, including finance, budgeting, human resources, purchasing, inventory, facility maintenance, motor vehicles, mail and printing, office services, and affirmative action, as well as administrative operations and decision making processes of the Commission.

Claims Department

Mission: Improve the timeliness and accuracy of benefits provided to injured workers.

The administration and management of accident reports and any resulting claims are responsibilities of the Claims Department. After an accident is reported to the Claims Department, its progress through the system is monitored at various stages by claims personnel. Individual case records are reviewed to ensure the requirements of the Workers' Compensation Act and the rules and regulations of the Commission are being observed. Conflicts of a non-judicial matter are often resolved in the Claims Department.

Insurance and Medical Services Department

Mission: Assure availability of workers' compensation benefits to injured workers, provide employers a self-insurance alternative, and contain medical costs.

The Department of Insurance and Medical Services is responsible for maintaining, monitoring, and enforcing the various requirements that employers obtain and maintain sufficient workers' compensation insurance coverage. The Coverage Division maintains insurance records of employers who purchase coverage from commercial insurance carriers. The responsibility for investigating uninsured employers to determine if they are subject to the Workers' Compensation Act is the responsibility of the Compliance Division. Under certain conditions, South Carolina employers may self-insure themselves against losses resulting from on-the-job injuries. Qualifying and regulating the self-insured employers is the responsibility of the Self-Insurance Division. The department's Medical Services Division is responsible for maintaining the fee schedules that regulate charges by doctors and hospitals and for approving various fees and charges in accordance with the established schedules.

Judicial Department

Mission: Assess and assign for disposition all claims that require mediation, adjudication, or appellate review.

The Judicial Department is responsible for scheduling contested matters and viewings before a commissioner and for scheduling appeals before an appellate panel of Commissioners. Case preparation in anticipation of a hearing consists of reviewing a file, requesting additional documentation from the parties, preparing a case summary, sending notices to the parties, and maintaining the docket. The Commission's claims mediation services also are a responsibility of the Judicial Department.

Information Services Department

Mission: Provide the necessary support to agency employees to enable them to accomplish the organization's mission.

The Information Services Department is responsible for the use and management of information, data processing functions, research and statistics, and records, both electronic and manual. One of the primary goals of this department is to increase the availability, accuracy, timeliness, and the quality of data and information used in the delivery of services.

Legal Department

Mission: Provide legal counsel to the agency, prosecute uninsured employers, and draft changes to legislation and regulations.

The staff attorney serves as legal counsel and advisor to the Commission. In addition, the staff attorney brings show cause actions on behalf of the Commission, drafts proposed legislation and regulations, and monitors the legal and legislative developments in the field of workers' compensation.

SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

COMMISSIONERS
July 1, 2006 - June 30, 2007

David W. Huffstetler, Chairman
Lexington
Appointed: August 27, 2004
Term of Office: 2012

Susan S. Barden, Vice Chair
Columbia
Appointed: May 27, 2004
Term of Office: 2010

J. Alan Bass
Myrtle Beach
Appointed: May 17, 2002
Term of Office: 2008

Andrea C. Roche
Columbia
Appointed: July 1, 2006
Term of Office: 2012

George N. Funderburk
Greenville
Appointed: May 17, 2002
Term of Office: 2008

G. Bryan Lyndon
Anderson
Appointed: April 10, 2004
Term of Office: 2010

Derrick L. Williams
Columbia
Appointed: March 15, 2007
Term of Office: 2008

SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

DEPARTMENT AND DIVISION DIRECTORS

As of June 30, 2007

EXECUTIVE DIRECTOR
Gary R. Thibault, Executive Director

ADMINISTRATION DEPARTMENT
Janice Sanders Sutton, Finance & Human Resources Director
Evelyn Morgan, Administrative Services Manager

CLAIMS & MEDIATION DEPARTMENT
Greg Line, Director
Laverne Spry, Deputy Commissioner & Claims Mediator
Sallie Wider, Records Control Supervisor

INSURANCE AND MEDICAL SERVICES DEPARTMENT
Vacant, Director
W. C. Smith, Self-Insurance Director
Garry Smith, Compliance Director
Tammra Brasfield, Coverage Director
Julie Lewis, Medical Services Director

JUDICIAL DEPARTMENT
Virginia L. Crocker, Director
Eugenia Hollmon, Judicial Docketing Director

INFORMATION RESOURCES MANAGEMENT
Matt Cleary, CIO

LEGAL DEPARTMENT
Janet Godfrey Griggs, General Counsel

FINANCIAL STATEMENT

FISCAL YEAR 2006- 2007

ACCOUNTS	APPROPRIATION	EXPENDITURES	BALANCE
ADMINISTRATION			
Director	$90,502	$90,502	$0
Classified Positions	327,728	327,728	0
Terminal Leave	9,533	9,533	0
Contractual Services	249,034	249,034	0
Supplies & Materials	58,419	58,419	0
Fixed Charges & Contributions	105,043	105,043	0
Travel	27,069	27,069	0
Equipment	25,251	25,251	0
Total Administration	$892,579	$892,579	$0
JUDICIAL			
A. COMMISSIONERS			
Chairman	$111,275	$111,275	$0
Commissioners	571,536	571,536	0
Classified Positions	286,594	286,594	0
Terminal Leave	35,256	35,256	0
Contractual Services	28,730	28,730	0
Supplies & Materials	2,082	2,082	0
Fixed Charges & Contributions	48	48	0
Travel	18,834	18,834	0
Equipment	5,903	5,903	0
Total Commissioners	$1,060,258	$1,060,258	$0
B. MANAGEMENT			
Classified Positions	$118,155	$118,115	$0
Terminal Leave	2,154	2,145	0
Contractual Services	10,465	10,465	0
Supplies & Materials	12,299	12,299	0
Total Management	$143,064	$143,064	$0
INSURANCE & MEDICAL SERVICES			
Classified Positions	$280,469	$280,469	$0
Contractual Services	9,567	9,567	0
Supplies & Materials	387	387	0
Fixed Charges & Contributions	5,351	5,351	0
Travel	1,609	1,609	0
Total Ins. & Med. Svc	$297,383	$297,383	$0

ACCOUNTS	APPROPRIATION	EXPENDITURES	BALANCE
CLAIMS			
Classified Positions	$307,062	$307,062	$0
Unclassified Position	62,081	62,081	0
Contractual Services	1,939	1,939	0
Fixed Charges & Contributions	5,711	5,711	0
Total Claims	$376,793	$376,793	$0
CARRYFORWARD APPROP	$204,397		$204,397
EMPLOYEE BENEFITS			
Employer Contributions	$618,546	$618,546	$0
Total Employee Benefits	$618,546	$618,546	$0
TOTAL APPROPRIATION	$3,593,020	$3,388,623	$204,397
OTHER FUNDS			
ADMINISTRATION			
Classified Positions	$89,998	$89,998	$0
Temporary Positions	41,303	40,759	544
Contractual Services	296,755	296,322	433
Supplies & Materials	107,698	107,698	0
Fixed Charges & Contributions	184,569	184,569	0
Travel	17,173	17,173	0
Equipment	4,510	4,510	0
Taxes	8,284	8,284	0
Total Administration	$750,290	$749,313	$977
A. COMMISSIONERS			
Taxable Subsistence	58,087	49,036	9,051
Temporary Positions	57,500	44,280	13,220
Contractual Services	130,949	130,949	0
Supplies & Materials	75,798	3,733	72,065
Fixed Charges & Contr.	132,150	132,150	0
Travel	61,511	61,511	0
Transportation	95	95	0
Total Commissioners	$516,090	$421,754	$94,336
B. MANAGEMENT			
Classified Positions	$231,585	$231,585	$0
Contractual Services	38,134	38,134	0
Supplies & Materials	2,670	2,181	0

ACCOUNTS	APPROPRIATION	EXPENDITURES	BALANCE
Fixed Charges & Contr.	46,803	46,803	0
Travel	4,538	2,072	2,466
Total Management	$323,730	$320,775	$2,955
INSURANCE & MEDICAL SERVICES			
Classified Positions	$155,579	$155,579	$0
Temporary Positions	17,356	17,356	0
Terminal Leave	4,800	4,800	0
Contractual Services	3,876	3,876	0
Supplies & Materials	3,382	916	2,466
Fixed Charges & Contribution	37,457	37,457	0
Travel	4,071	4,071	0
Taxes	541	541	0
Total Ins. & Med. Svc	$227,062	$224,596	$2,466
CLAIMS			
Classified Positions	$90,982	$66,813	$24,169
Temporary Positions	19,500	16,418	3,082
Contractual Services	45,716	45,716	0
Supplies & Materials	16,420	12,803	3,617
Fixed Charges & Contribution	57,396	57,396	0
Travel	842	842	0
Total Claims	$230,856	$199,988	$30,686
EMPLOYEE BENEFITS			
Employer Contributions	$151,971	$151,971	$0
Total Employee Benefits	$151,971	$151,971	$0
COMPUTER DATABASE			
Contractual Services	$1,087,112	$346,732	$740,380
Supplies & Materials	0	0	0
Fix Charges & Contributions	0	0	0
Equipment	4,957	4,957	0
Total Computer Database	$1,092,069	$351,689	$740,380
TOTAL OTHER FUNDS	$3,292,068	$2,420,086	$871,982
TOTAL AGENCY	$6,885,088	$5,808,709	$1,076,379
Appropriation of Remaining Cash Balance For FY04-05			$204,397

OTHER FUNDS RETAINED

	RECEIPTS	EXPENDITURES	BALANCE
Penalties, Fees, Fines *	$4,362,073	$2,068,397	$2,293,676
Training, Conference **	17,678	2,896	14,782
Sale of Publications ***	116,285	540	115,745
Capital Reserve Fund	854,757	351,689	503,068
Total Other Funds	$5,350,793	$2,423,522	$2,927,271

OTHER FUNDS - GENERAL FUNDS

Workers' Comp. Self-Insurance Tax	$5,790,383	$0	$5,790,383
Insolvency Fund	-891,730	0	-891,730
Self-Insurance Application Fee	8,567	0	8,567
Miscellaneous Revenue	484	0	484
Total Funds	$4,907,704	$0	$4,907,704

*Receipts include $2,717,790 carried forward from FY2006
** Receipts include $3,062 carried forward from FY2006
***Receipts include $105,909 carried forward from FY2006

ACTIVITY SUMMARY & STATISTICAL ABSTRACT

The following tables and charts illustrate the work activity of the Workers' Compensation Commission for FY 2006 - 2007. Activity is measured primarily by the number of cases handled at each stage in the system. Once an accident is reported, there are a number of steps that must be taken before a claim can be closed. The most serious accidents and those that are disputed require additional processing and are open for a longer period of time.

South Carolina is among those states with moderate benefits and workers' compensation rates. According to the 2007 Workers' Compensation Premium Rate Ranking conducted by the Oregon Department of Consumer & Business Services, South Carolina employers in the voluntary market pay, on average, the 26th lowest rates in the nation. Actuarial and Technical Solutions of New York found South Carolina had the eighteenth lowest workers' compensation costs in the nation among firms in the manufacturing industry, and twenty second lowest in benefits.

During this past year, the number of workers' compensation policies issued increased 5.3% from 76,551 to 80,872. The number of employers self-insured, individually and through self-insured funds, decreased 20.6% from 4,312 to 3,420, primarily as a result of fewer members of self-insured funds. Self-insurance taxes collected decreased .8 %, from $5.9 to $5.8 million.

In FY 2006-2007, 80,452 accidents were filed with the Commission, up 4.9% from 76,715 filed the previous year. Individually reported accidents increased 6.7% from 28,454 to 30,341 after having decreased 19.3% the previous year. The number of minor medical only cases decreased slightly from 45,561 to 45,091.

After having increase 5.3% in 2005-2006, total compensation and medical paid on cases closed last year decreased 7.8% to $748,231,154. Medical costs decreased 9.4% to $281,706,637 with compensation costs decreasing 6.8% to $466,524,517. The decrease in medical costs can be attributed to the implementation of the new hospital impatient and outpatient payment system. Compensation costs were impacted by a 4.8% increase in the average weekly wage.

The vast majority of workers' compensation claims are processed and resolved with the injured employee receiving timely and appropriate medical care and returning to work with little or no time lost from work. Even the majority of the remainder of the more complex cases are resolved between the parties. Of the 80,452 cases filed with the Commission during the past fiscal year, 10,205, 12.7%, requested a hearing to resolve a dispute between the parties. Of the 10,205 hearings scheduled, 2,199 hearings were held, a 16.5% decrease from the previous year. Overall, 2,231 single commissioner decisions, opinions and orders were released. In FY 2006 - 2007, 4,027 informal conferences were held, a 18.7% decrease, and 9,755 common law settlements approved, relatively unchanged from the year before. Cases appealed to the Full Commission for review decreased 22.8% to 968, and decisions appealed to Circuit Court increased by 30.9% to 322.

Recapitulation

	2005-2006	2006-2007
1. Number of Policies Issued	76,551	80,872
2. Number of Employers Qualifying as Self-Insurers	4,312	3,420
3. Investigations Active Beginning of Fiscal Year	160	207
4. Investigations Initiated	871	895
5. Investigations Set for Show Cause Hearings/		78
Consent Agreements Received	405	149
6. Total Investigations Closed	824	740
7. Investigations Active at Close of Fiscal Year	207	228
8. Number of Accident Cases Filed with the Commission	76,715	80,452
A. New Cases	74,321	77,670
B. Reopened cases	2,394	2,782
9. Number of Cases Closed during Fiscal Year	74,015	75,522
A. Individually Reported Accidents	28,454	30,431
B. Minor Medical Only Accidents Reported in Summary	45,561	45,091
10. Total Compensation & Medical Cost Paid		
on Closed Cases	$811,779,942	$748,231,154
A. Medical Costs	$311,193,076	$281,706,637
B. Compensation	$500,586,866	$466,524,517
11. Temporary Compensation Agreements	14,831	16,788
12. Agreements for Permanent Disability	8,066	4,451
13. Applications for Stop Payment *	2,984	3,328
14. Cases Docketed for Hearings	11,400	10,205
15. Cases Assigned for Informal Conferences	5,456	5,429
16. Hearings Conducted by Single Commissioners	2,632	2,199
17. Informal Conferences Conducted	4,956	4,027
18. Decisions, Opinions & Orders, Single Commissioners	2,802	2,231
19. Cases Appealed to Full Commission for Review	1,255	968
20. Reviews Conducted by Full Commission or Panel	868	644
21. Decisions and Opinions by Full Commission or Panel	642	718
22. Commission Decisions Appealed to Circuit Court	246	322
23. Common Law Settlements	9,769	9,755
24. Attorney Fee Approvals	10,688	10,295
25. Self-Insurance Tax Collected and Deposited		
to the General Fund	$5,914,523	$5,862,301

* Includes 60-Day Hearings

AGGREGATED BENEFITS - FY 1935 THROUGH FY 2006

This chart reports the number of cases closed per fiscal year and the amount of compensation and medical expenses paid.

Fiscal Year	Cases	Compensation	Medical
1934-35	11,458	$ 250,577	$ 170,670
1939-40	25,994	$ 394,223	$ 405,019
1944-45	36,864	$ 1,358,293	$ 474,681
1949-50	35,667	$ 1,755,179	$ 912,597
1954-55	44,035	$ 3,275,755	$ 1,573,474
1959-60	43,884	$ 5,072,006	$ 2,608,076
1964-65	59,725	$ 6,768,829	$ 3,828,226
1965-66	65,365	$ 6,867.203	$ 4,278,421
1966-67	69,297	$ 7,704,629	$ 4,407,379
1967-68	64,915	$ 9,655,456	$ 5,101,658
1968-69	73,013	$ 9,615,519	$ 5,677,654
1969-70	80,293	$ 10,738,366	$ 6,289,786
1970-71	72,379	$ 11,201,101	$ 6,964,646
1971-72	83,273	$ 11,527,419	$ 7,634,332
1972-73	79,597	$ 11,792,332	$ 9,012,884
1974-75	93,591	$ 18,289,965	$ 10,493,286
1975-76	83,366	$ 20,351,297	$ 11,038,204
1976-77	88,388	$ 23,362,924	$ 10,464,476
1977-78	101,938	$ 33,263,746	$ 16,111,918
1978-79	111,739	$ 40,421,561	$ 18,771,706
1979-80	114,459	$ 47,077,247	$ 21,878,795
1980-81	120,216	$ 54,637,463	$ 25,995,462
1981-82	111,400	$ 61,695,438	$ 29,252,885
1982-83	98,632	$ 69,970,953	$ 31,990,075
1983-84	80,172	$ 73,003,062	$ 33,776,506
1984-85	81,925	$ 68,180,229	$ 35,485,599
1985-86	88,521	$ 96,422,558	$ 47,820,349
1986-87	115,128	$137,045,282	$ 66,854,808
1987-88	112,247	$120,649,315	$ 66,740,699
1988-89	102,630	$164,599,203	$ 78,849,921
1989-90	129,951	$176,323,354	$ 91,160,407
1990-91	113,143	$187,827,035	$ 99,556,117
1991-92	103,695	$213,342,923	$119,931,934
1992-93	116,593	$236,374,239	$135,846,583
1993-94	143,167	$295,903,349	$177,061,906
1994-95	137,004	$223,564,528	$142,896,705
1995-96	105,874	$233,868,938	$149,644,830
1996-97	93,709	$250,579,855	$150,574,664
1997-98	93,551	$237,017,627	$147,749,239
1998-99	120,128	$253,371,802	$162,104,819
1999-2000	65,658	$278,849,036	$164,957,331
2000-2001	92,555	$316,041,961	$186,702,667
2001-2002	88,891	$327,510,789	$199,210,160
2002-2003	88,913	$359,713,537	$211,908,560
2003-2004	87,991	$411,216,794	$204,934,938
2004-2005	91,890	$485,070,200	$286,467,000
2005-2006	74,715	$500,586,866	$311,193,076
2006-2007	80,872	$466,524,517	$281,706,637

COMPENSATION RATES

The General Assembly is responsible for establishing compensation rates. The table below illustrates the change in both weekly and maximum compensation since 1975.

EFFECTIVE DATE	MAXIMUM PERCENTAGE	MAXIMUM WEEKLY RATE	COMPENSATION
January 1, 1975	66 ⅔%	$ 91.17	$ 40,000.00
July 1, 1975	66 ⅔%	$ 95.35	$ 40,000.00
April 14, 1976	66 ⅔%	$ 147.44	$ 40,000.00
January 1, 1977	66 ⅔%	$ 160.00	$ 40,000.00
January 1, 1978	66 ⅔%	$ 172.00	$ 40,000.00
May 19, 1978	66 ⅔%	$ 172.00	500 Weeks
January 1, 1979	66 ⅔%	$ 185.00	500 Weeks
January 1, 1980	66 ⅔%	$ 197.00	500 Weeks
January 1, 1981	66 ⅔%	$ 216.00	500 Weeks
January 1, 1982	66 ⅔%	$ 235.00	500 Weeks
January 1, 1983	66 ⅔%	$ 254.38	500 Weeks
January 1, 1984	66 ⅔%	$ 268.99	500 Weeks *
January 1, 1985	66 ⅔%	$ 287.02	500 Weeks
January 1, 1986	66 ⅔%	$ 294.95	500 Weeks
January 1, 1987	66 ⅔%	$ 308.24	500 Weeks
January 1, 1988	66 ⅔%	$ 319.20	500 Weeks
January 1, 1989	66 ⅔%	$ 334.87	500 Weeks
January 1, 1990	66 ⅔%	$ 350.19	500 Weeks
January 1, 1991	66 ⅔%	$ 364.37	500 Weeks
January 1, 1992	66 ⅔%	$ 379.82	500 Weeks
January 1, 1993	66 ⅔%	$ 393.06	500 Weeks
January 1, 1994	66 ⅔%	$ 410.26	500 Weeks
January 1, 1995	66 ⅔%	$ 422.48	500 Weeks
January 1, 1996	66 ⅔%	$ 437.79	500 Weeks
January 1, 1997	66 ⅔%	$ 450.62	500 Weeks
January 1, 1998	66 ⅔%	$ 465.18	500 Weeks
January 1, 1999	66 ⅔%	$ 483.47	500 Weeks
January 1, 2000	66 ⅔%	$ 507.34	500 Weeks
January 1, 2001	66 ⅔%	$ 532.77	500 Weeks
January 1, 2002	66 ⅔%	$ 549.42	500 Weeks
January 1, 2003	66 ⅔%	$ 563.55	500 Weeks
January 1, 2004	66 ⅔%	$ 577.73	500 Weeks
January 1, 2005	66 ⅔%	$ 592.56	500 Weeks
January 1, 2006	66 ⅔%	$ 616.48	500 Weeks
January 1, 2007	66 ⅔%	$ 645.94	500 Weeks

* Effective May 31, 1984, (Act No. 417), "Any person determined to be totally and permanently disabled who as a result of a compensable injury is a paraplegic, a quadriplegic, or who has suffered physical brain damage is not subject to the five hundred week limitation and shall receive such benefits for life." (Section 42-9-10, as amended)

CASES ASSIGNED FOR HEARINGS AND INFORMAL CONFRENCES

	Hearings					Informal Conferences				
County	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
Abbeville	38	37	41	27	31	31	28	23	18	20
Aiken	248	249	287	220	245	155	162	152	132	132
Allendale	22	27	42	24	38	9	14	18	8	14
Anderson	447	446	472	364	356	227	218	248	199	207
Bamberg	15	13	23	25	30	13	17	19	17	16
Barnwell	51	35	45	43	34	12	13	13	15	22
Beaufort	335	359	388	351	391	188	200	161	149	156
Berkeley	193	261	276	246	302	139	169	137	131	155
Calhoun	26	27	23	12	22	13	9	7	14	4
Charleston	1011	1,222	1,235	507	1206	642	581	518	460	495
Cherokee	147	121	152	114	114	127	113	88	77	82
Chester	91	100	84	80	86	66	51	45	36	44
Chesterfield	90	104	82	79	64	71	60	54	65	47
Clarendon	70	67	69	69	106	26	19	24	23	43
Colleton	119	86	103	92	81	62	58	54	32	45
Darlington	120	107	104	102	89	80	62	52	38	50
Dillon	29	35	45	46	45	37	26	23	14	20
Dorchester	166	202	243	778	253	120	111	131	110	108
Edgefield	21	31	29	29	26	23	6	11	15	19
Fairfield	64	74	52	51	75	34	23	34	25	29
Florence	349	377	332	302	352	208	192	185	201	182
Georgetown	129	204	252	157	290	141	120	99	74	96
Greenville	1214	1,141	1,326	1,241	1240	879	851	802	783	847
Greenwood	145	125	149	155	154	133	136	116	96	126
Hampton	38	36	54	45	37	39	33	43	23	20
Horry	540	537	518	466	594	255	244	266	261	261
Jasper	32	27	59	36	49	11	8	7	24	13
Kershaw	111	119	155	117	138	101	94	61	52	63
Lancaster	95	58	96	91	73	77	65	58	38	75
Laurens	167	120	119	132	153	77	63	74	86	87
Lee	29	23	42	31	14	13	13	8	13	16
Lexington	470	505	500	474	597	300	349	331	269	339
McCormick	21	17	19	10	9	19	6	5	5	6
Marion	41	48	68	41	54	37	30	22	25	22
Marlboro	42	54	33	38	54	21	28	33	34	26
Newberry	78	70	95	81	75	86	59	76	85	70
Oconee	144	147	169	131	118	122	97	113	93	61
Orangeburg	231	221	242	44	212	113	149	88	108	140
Pickens	190	173	189	185	171	170	149	125	120	128
Richland	866	983	968	883	1272	558	515	570	505	659
Saluda	17	12	16	16	12	13	6	9	5	7
Spartanburg	680	662	796	602	737	434	384	402	319	307
Sumter	277	239	277	378	326	181	146	141	120	135
Union	37	44	50	142	54	41	31	18	25	31
Williamsburg	32	50	60	31	38	21	27	35	25	18
York	317	296	318	282	318	180	176	181	171	163
TOTALS	9,595	9,891	10,697	9,370	10,735	6,305	5,911	5,680	5,138	5,606

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION PUBLICATIONS

Form 2	Poster
Form 5	Corporate Officer Notice To Reject
Form 6	Application To Create A Self-Insurance Fund
Form 6A	Application For Membership In A Self-Insurance Fund
Form 7	Application To Individually Self-Insure
Form 7A	Corporate Guaranty
Form 8	Proof Of Compliance, Surety Bond
Form 8A	Proof Of Compliance, Securities Pledge
Form 8B	Proof Of Compliance, Memorandum Of Understanding, And Irrevocable Letter Of Credit
Form 8C	Proof Of Compliance, Excess Insurance
Form 9	Certificate For Self-Insurance
Form 10	Self-Insurance Tax Return (Reserved)
Form 11	Self-Insurer's Quarterly Financial Report
Form 11A	Self-Insurer's Annual Financial Report
Form 12-A	Employer's First Report Of Injury (ACORD 4)
Form 12-M	Report Of Injury, Medical Only
Form 14-A	Physician's Report and Itemized Statement HCFA-1500 for physicians UB-92 for hospitals
Form 15	Temporary Compensation Report
Form 15S	Supplemental Report of Varying Temporary Partial Payments
Form 16	Agreement for Permanent Disability/Disfigurement Compensation
Form 17	Receipt of Compensation
Form 18	Periodic Report
Form 19	Status Report And Compensation Receipt
Form 20	Statement of Earnings of Injured Employee
Form 21	Employer's Request For Hearing
Form 23	Order Closing File
Form 24	Application For Lump Sum Award
Form 27	Subpoena
Form 30	Request For Commission Review
Form 31	Notice of Review Hearing
Form 32	Request To Waive Appeal Filing Fee
Form 36	Medical Fee Approval
Form 38	Employer's Withdrawal Of Election To Adopt The South Carolina Workers' Compensation Act
Form 40	Motion for Expedited Adjudication
Form 50	Employee's Notice of Claim And/Or Request For Hearing
Form 51	Employer's Answer To Request For Hearing
Form 52	Employee's Notice Of Claim And/Or Request For Hearing, Death Case

Publications
(continued)

Form 53	Employer's Answer to Request For a Hearing, Death Case
Form 54	Employer's Notice of Claim And/Or Request for Hearing
Form 55	Second Injury Fund's Answer to Employer's Request For Hearing
Form 58	Pre-Hearing Brief
Form 61	Attorney Fee Petition
Form 62	Compliance Agreement
Form 65	Waiver of Claim Involving an Occupational Disease
Form SIF-1	Agreement to Reimburse Compensation
Form SIF-2	Reimbursement Request
Form SIF-3	Employer's Notice of Claim for Reimbursement Form
Form SIF-4	Medical Information Request
Form S-1	Notice of Third Party Action, Employer
Form S-2	Notice of Third party Action, Employee
Form S-3	Entitlement to Right of Action
Form S-4	Court Certificate
Bulletins	"For You" Claims Information
	"What Every Employer Should Know About Workers' Compensation"
	"Frequently Asked Questions About Informal Conferences"

Claims Administration Made Easy Workbook
South Carolina Worker's Compensation law (The West Group, Publisher)
Medical Services Provider Manual
Hospital and Ambulatory Surgical Center Payment Manual